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MAINE PUBLIC UTILITIES COMMISSION
Inquiry Into Certain Issues Related to
Standard Offer Service and the Retail Market

REPORT ON STANDARD
OFFER SERVICE ISSUES

I. SUMMARY

This Report presents our current views and conclusions on the issues raised in our Inquiry Into Certain Issues Related to Standard Offer Service and The Retail Market, Docket No. 2003-127.

II. BACKGROUND

In December 2002, the Commission submitted to the Maine Legislature its “Standard Offer Study and Recommendations Regarding Service After March 1, 2005.” The Legislature had directed the Commission to examine and provide recommendations in several areas related to electricity retail competition and standard offer service. The Standard Offer Study contained findings and recommendations, and identified several issues for further consideration. On March 5, 2003, we initiated this Inquiry to seek information and comment from interested persons on the matters specified in the Standard Offer Study as requiring further consideration.

In our Standard Offer Study, we concluded that the design of standard offer service should be tailored to reflect the degree of competition within particular customer classes. We found that, because retail competition for medium and large commercial and industrial (C&I) customers appeared to be fairly well developed, standard offer service should be designed to interfere as little as possible with the market, while

providing a supply of last resort for customers who are unable to obtain a competitive supply. The Study identified three aspects of standard offer service for the medium and large classes that warrant examination: (1) better alignment of standard offer price changes with market changes; (2) elimination or modification of opt-out fees; and (3) greater consistency within the market in the treatment of customer credit risk.

The Standard Offer Study observed that, in contrast to the medium and large C&I classes, to date there has been little retail competition for the residential and small commercial class. The Study identified several measures that could increase access to the small customer market and thus stimulate retail competitive activity for the sector. These were: (1) provision of customer lists, account numbers and data to suppliers; (2) supplier access to customers through utility billing; and (3) utility distribution of disclosure labels.

On March 5, 2003, we issued a Notice of Inquiry (NOI), initiating this proceeding. In the NOI, we specified the issues as discussed in the Standard Offer Study as the topics for the Inquiry and sought input from interested persons. We solicited written comment on the specified issues and also conducted a conference to allow for further discussion of the issues and the written comments. The following participated in this Inquiry: Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE), Maine Public Service Company (MPS), Houlton Water Company (HWC), Competitive

Energy Services (CES), Constellation Companies¹ (Constellation), Select Energy, Inc. (Select), and WPS Energy Services, Inc. (WPS).²

III. MEDIUM AND LARGE C&I MARKET

A. General Approach

1. Comments

In its comments, CMP discusses the Commission's general approach to the design of standard offer for the medium and large C&I market as enunciated in the Standard Offer Report and summarized in the NOI in this proceeding. CMP expresses concern at what it views as a Commission desire to move medium and large customers out of standard offer service and into the competitive market. Specifically, CMP is concerned that the Commission is leaning towards a system that would sacrifice opportunities to lock in low standard offer prices if such action might inhibit the development of a competitive electricity market in Maine. CMP states that it does not concur with the Commission's apparent decision to favor the development of a vibrant competitive retail market over obtaining a long-term, low-priced standard offer supply. CMP points out that standard offer service is procured through a competitive process and thus it achieves the goal of providing supply through markets. The Commission, according to CMP, should adopt lowest possible prices as the priority over developing a retail market and should not act to "force" customers to shop by

¹ The Constellation Companies refer to the following affiliated entities: Constellation Power Source, Inc., Constellation Power Source Maine, LLC and Constellation NewEnergy, Inc. Constellation Power Source Maine is currently a standard offer provider and Constellation NewEnergy is a competitive retail supplier.

² Select and WPS are currently both standard offer providers and competitive retail suppliers.

implementing changes intended to make standard offer service unattractive (e.g., shorter term prices and indexed prices).

Additionally, CMP is concerned that the Commission's current direction will transform standard offer service into a "supply of last resort" consisting only of customers that, for a variety of reasons, cannot obtain supply from the competitive retail market (such as bad credit or poor load factor). If this occurs, CMP states that the prices for these customers are likely to be extremely high.

Finally, CMP states that the competitive market for medium and large C&I customers is not as vibrant as portrayed by the Commission in the Standard Offer Report. CMP points out that since the initiation of retail choice, large percentages of customers remain on the standard offer.

2. Discussion

We do not disagree with CMP that the overall priority in implementing the Restructuring Act is to produce low electricity prices over time for Maine's consumers consistent with a competitive electricity market. However, we disagree with CMP that the way to accomplish this goal is to attempt to lock in long-term standard offer prices whenever we perceive that prices are at a low point in the market. CMP's position in this regard seems to be driven to a large degree by a Commission decision in 2001 not to select a 3-year standard offer bid for the medium and large classes at what appeared to be low rates. Our view is that the goals of the Restructuring Act are not best served by an overall approach whereby the Commission tries to determine market trends and locks in long-term standard offer prices when it thinks the time is right. The Commission is not in an especially favorable position to judge market trends and, as a general matter, prices are just as likely to trend down as

up at any particular point in time. Therefore, any time that we might lock in long-term standard offer prices and market prices drop, we are likely to receive criticism opposite to that presented by CMP in this Inquiry, that is, that a shorter-term standard offer would have saved customers significant amounts of money. Moreover, as discussed in the Standard Offer Report (page 16), CMP's recommended approach would risk creating a "here-again-gone-tomorrow" retail market that could seriously impede or destroy the development of sustainable retail competition in Maine.

As stated in the Standard Offer Study, our view continues to be that the approach to standard offer service should depend on whether there is sufficient retail competition in a particular market sector.³ In sectors where there is sufficient retail competition, we should seek to avoid situations in which retail competition is effectively halted for extended periods when market prices rise above standard offer prices. Conversely, even though lower priced competitive alternatives may be available to many customers when standard offer prices are high relative to the market, we see little benefit in allowing such high standard offer prices to persist for extended periods of time. Thus, as long as price stability is available in the market through long-term contracts, we continue to believe that the best approach is to have standard offer prices follow the market as much as practical. This approach is not intended to be punitive or to force customers off standard offer; rather, it is attempt to satisfy the goals of the Restructuring Act by fostering low prices and stability through a retail competitive

³ We note that the retail market situation in northern Maine is different than that which exists in the ISO-NE control area portions of Maine. For this reason, we may take a different approach and refrain from approaches that employ frequent price changes in the northern Maine market.

market,⁴ while maintaining a default service for those who need it that is priced at prevailing market prices.

Although we are not acting to “force” customers off the standard offer, we agree with CMP that over time standard offer will likely comprise customers that are less desirable to serve. One way to help mitigate the price impact of such a class of standard offer customers is to price the service as close as possible to prevailing market prices. This would help to mitigate prices to an “undesirable” class of customers because such pricing tends to reduce risk for suppliers. Additionally, as discussed in the Standard Offer Study (page 18), deregulation is expected to reveal and remove hidden subsidies that occur with the averaging of regulated rates. Thus, the higher standard offer rates that CMP is concerned might occur with migration off standard offer should be offset by lower rates to other customers as the market works to eliminate previously hidden subsidies.⁵

Finally, we recognize that sizable percentages of medium and large customers remain on standard offer service. However, it remains the case that the vast majority of customers in the medium and large sectors have access to retail suppliers.

⁴ We agree with CMP that attaining the lowest electricity prices possible is the ultimate goal, but we believe that the underlying theory of the Restructuring Act is that a healthy, competitive market is the best way to accomplish that goal over the long term. Thus, to the extent that our desire to foster competition may lead us to decline to lock in what appears to be a low standard offer price, we do not see that as favoring competition over low prices but rather as favoring the long term objective over a shorter term benefit.

⁵ As noted in the Standard Offer Study (page 18), the State retains the ability to act in a more direct manner to ensure that customers with credit problems or other characteristics that make them undesirable to serve in a competitive market have access to reasonably priced electricity (e.g., through direct ratepayer or taxpayer guarantees).

If, at any point, we determine that a sufficient number of such suppliers no longer exist, we will re-examine our approach to designing standard offer service.⁶

B. Alignment of Price Changes

Consistent with our view that standard offer prices for medium and large standard offer customers should track market changes as closely as practicable, the NOI sought comment on the feasibility and relative advantages of various index-based approaches and of more frequent standard offer solicitations.

1. Comments

CMP indicates that it is not a proponent of indexed standard offer pricing⁷ because: 1) it is unaware of any workable index for this purpose; 2) if an inaccurate index is used, provider risk will increase, resulting in higher prices; and 3) indexed pricing raises billing complexities and issues. BHE, MPS, and HWC concur with CMP and oppose indexed pricing, arguing that customers prefer stable pricing and that indexing will be difficult to implement.

CES proposes that we adopt a model similar to that used in Texas under which standard offer service would be priced at a fixed mark-up of 150% above energy clearing prices for the Maine zone. Constellation endorses setting standard offer prices to track the market as closely as possible and proposes that index-pricing be adopted for the large class. For the index, Constellation proposes either the

⁶ On September 25, 2002, we issued an order requiring utilities to periodically provide information on retail suppliers serving Maine customers. *Order Regarding Retail Market Information*, Docket No 2002-169 (Sept. 25, 2002). The purpose of this information is to help the Commission to monitor Maine's retail market to ensure that a sufficient number of suppliers continue to serve medium and large C&I customers.

⁷ CMP also indicated that it is not a proponent of frequent standard offer solicitations as a means to have prices more closely track the market. CMP states that conducting a bid process more than once a year is an unnecessary drain on the resources of the Commission, utilities, and suppliers.

NEPOOL day-ahead market price or the real-time market price for the Maine zone, stating that it is important that the index exist in the market (not be especially created for this purpose), be observable, and move with retail market prices. The bid prices would be the chosen index plus a service fee. For medium customers, Constellation recommends a continuation of monthly prices through solicitations for fixed terms. To encourage sustained out-migration and prevent customers from gaming the standard offer, Select suggests that the Commission adopt a second default service for customers that have previously left the standard offer for the competitive market (such customers would not be allowed to return to standard offer service). The new default service would be competitively bid on a quarterly basis, while standard offer would continue to be procured semi-annually. WPS expresses concern that the use of any of the indexing alternatives would be complicated to implement and administer, confusing to customers, and would not necessarily mirror the electric market with greater accuracy than the current model. WPS recommends that the Commission continue its current approach of periodic bids for short terms.

2. Discussion

The commenters raised several issues regarding the selection and implementation of indexed standard offer pricing. At this point, no clearly workable index for this purpose has been identified, and potential implementation and administrative issues have not yet been fully explored. Furthermore, significant customer education would be necessary prior to implementing indexed standard offer prices. Accordingly, at this point, it is premature to adopt indexed standard offer pricing. Thus, for our next standard offer solicitation (for service to CMP and BHE medium and

large customers beginning September 1, 2003), we will maintain our current model of seeking fixed prices for specified terms.

We continue to believe that indexing may provide a workable model for setting standard offer prices. Therefore, to test the feasibility of indexed pricing, we will also create and track standard offer prices with an index that will shadow the actual prices during the next standard offer term. We will create shadow prices for only the large classes, because we are likely to defer indexed pricing for the medium classes until a workable model for the large classes has been successfully implemented.

The index for the shadow standard offer prices will likely be month-ahead electricity prices at the Massachusetts hub as reported by one or more trade journals. We have chosen not to use the NEPOOL day-ahead market or real time clearing prices because of billing complexities that at this point appear insurmountable (or expensive) and because, at least initially, any indexed approach should allow customers to be aware of prices sufficiently in advance of the usage to which the prices would apply. Although we have not ruled out a natural gas price-based index, we prefer an electricity index at this point. We share CMP's concern that reported electricity forward prices can be manipulated, and will carefully monitor the indices used during the shadow period.

We will also continue to explore the feasibility of more frequent standard offer solicitations as a means to have standard offer prices more closely track the market. We are aware of the resource drain that such an approach may entail. However, it is conceivable that a mechanism can be developed whereby a sufficient number of potential standard offer providers are pre-qualified through agreement on all non-prices terms, allowing for bid solicitations on a quarterly or monthly basis.

At this time, we decline to pursue either the CES or Select proposals. The CES proposal is based on the NEPOOL clearing prices. As stated above, our view is that use of such an indexing approach is not feasible at this time. Additionally, the CES proposal calls for a fixed 150% mark up on clearing prices. We believe it is preferable to allow the market (via competitive bid) to establish the mark-up above wholesale energy prices, rather than to set the mark-up administratively.

The Select proposal would require the Commission to continue to run a standard offer solicitation every six months, while adding a new “default service” solicitation every three months. From a resource standpoint, such an approach would be very difficult to design and implement. In addition, we are unconvinced of the merits of having two distinct standard offer-type services. An indexing approach, if we are able to adopt one, would satisfy Select’s goals of encouraging out-migration and minimizing gaming. In the absence of indexing, our view is that continuation of a single default service that is competitively bid in as short intervals as practicable will serve the desired purposes without the need for a second default service.

C. Opt-out Fees

The opt-out fee provisions of Chapter 301 were intended to discourage arbitrage between the market and standard offer service (often referred to as gaming the standard offer). However, as stated in the Standard Offer Report (page 16) and the NOI, the operation of the opt-out fee may discourage market entry more generally in that customers returning to standard offer must remain for a year or pay a substantial fee unless an explicit waiver is granted. Thus, customer concern (and perhaps confusion) over the operation of the opt-out fee may be discouraging customers from

entering the competitive market. Accordingly, the Commission sought comment on whether the opt-out fee should be eliminated, redesigned or replaced.

1. Comments

CMP states that a mechanism such as an opt-out fee is necessary to deter gaming of the standard offer that could raise prices and that the current mechanism works reasonably well. However, CMP believes the system is labor intensive for utilities and the Commission, and that the system could be improved if utilities were removed from the process of billing the fees. Instead, CMP suggests that the Commission handle the billing and collection of opt-out fees.

CES states that opt-out fees could be eliminated if an indexing approach is adopted in that strategic gaming could not occur. Constellation believes that opt-out fees are not necessary under the current model where prices vary monthly and are re-set frequently. Select commented that opt-out fees would not be necessary under its second default service proposal or other market-based pricing approach. Under the current model, Select would prefer an opt-in fee mechanism that would better discourage migration from the competitive market back to standard offer and cover ingress risk assumed by the standard offer provider. Select further states that any type of fee is not sufficient by itself and that the Commission should act to prohibit competitive suppliers from entering “contracts for differences” or “CFDs”⁸ with customers that allow the “gaming” of the standard offer. WPS commented that the opt-out fee policy has effectively accomplished its goals and that with efforts to have

⁸ Select describes CFDs as contractual arrangements in which retail customers and competitive suppliers agree that the customer will take standard offer service when market prices are higher than standard offer prices.

standard offer prices more closely track market prices, there will be fewer advantages in attempting to game the standard offer.

2. Discussion

We agree with commenters that the need for an opt-out fee would be eliminated with indexed pricing or sufficiently frequent bids. However, for the reasons discussed above, we cannot now adopt indexed pricing or periodic standard offer bids at intervals more frequent than the current six months. Accordingly, we cannot now conclude that a mechanism to deter the strategic gaming of the standard offer is unnecessary. We remain concerned that, in the absence of some mechanism to deter strategic gaming, the increased risk to suppliers could result in unnecessary increases in standard offer prices or a decision by suppliers not to bid to supply standard offer service in Maine.

Upon reflection, our view is that the current opt-out fee approach is superior to (or at least as good as) alternative approaches in reasonably deterring strategic gaming. Although the current approach does require administration by the Commission and utilities, the burden is not substantial in relation to the importance of minimizing standard offer gaming. In most instances, the opt-out fee has been triggered by inadvertence and because gaming is not implicated in such cases, the fees have been routinely waived with minimal process.⁹ We will, however, initiate a rulemaking to consider amending Chapter 301 to provide the Commission with authority to suspend or otherwise modify the opt-out fee mechanism upon a finding that it is no longer

⁹ A substantial amount of the activity that has triggered opt-out fees and requests for waivers has been the result of confusion in the wake of the Enron financial collapse. Such a circumstance is likely to be unusual and the frequency with which customers are faced with opt-out fees is likely to diminish over time as customers and their suppliers become more familiar with the rules.

warranted. This could occur if the Commission implements other changes that align standard offer prices more closely to market prices, so that the deterrence of gaming is no longer necessary. In addition, as a consequence of moving to shorter standard offer bid terms (e.g., 6 month terms), we will consider in the rulemaking whether it would be appropriate to reduce the 12-month stay requirement for customers returning to the standard offer.¹⁰

We disagree with CMP's suggestion that the Commission should take over the billing and collection of opt-out fees because of CMP's concern that it might be viewed as a "villain" by sending out the bills. CMP's opt-out fee invoice adequately explains the nature of the fee, and CMP is free to consider language changes that further clarify that the bill is not related to its utility services and is a result of Commission rules governing competitive supply services. At this point, our impression is that customers that receive opt-out fee bills understand the nature of the charge and that CMP is not suffering any particular customer ill will as a result of the opt-out fee charges.

We agree with Select that arrangements such as CFDs represent a strategic gaming of the standard offer that the opt-out fee mechanism is intended to deter. See, *Town of Herman, Request for Waiver of the Opt-Out Fee Requirement of Chapter 301*, Docket No. 2003-60 at 2 n.1 (Mar. 26, 2003). Such arrangements, although implicating the opt-out fee mechanism, are not prohibited in Maine. We recognize that there are policy and enforcement issues that arise whenever the

¹⁰ As noted in Constellation's comments, the current situation puts customers in the position of determining whether they should return to standard offer with a 12-month stay requirement when, under the current model, prices are known only for only six months.

prohibition of specific types of contractual provisions is considered.¹¹ We plan to examine the matter further in a future rulemaking.

D. Customer Credit

The Standard Offer Study (pages 17-18) indicated that the standard offer should not provide a safe-haven from credit and financial security requirements typically faced by customers in retail markets. The NOI thus requested comment on how suppliers typically handle customer credit risk and on what changes should be made to minimize unnecessary differences between the standard offer and the market.

1. Comments

CMP comments that the main difference between the standard offer and competitive supply is that competitive suppliers can impose whatever credit requirements they want and refuse to take customers that do not satisfy credit requirements. In contrast, the standard offer provider must take all customers, and credit and security requirements are governed by Commission rule. CMP sees no problem with the current system, noting that utilities manage standard offer receivables just like their own receivables. Thus, CMP sees no reason to provide financial incentives to properly manage standard offer receivables and strongly opposes any approach that would place any financial risk on utilities with respect to such receivables. BHE and MPS generally concur with CMP that utilities have the proper incentive to manage standard offer credit risk.

CES proposes that credit risk should be equalized by modifying the rules regarding disconnection for non-payment so they are the same regardless of whether the customer is taking standard offer or competitive service. Specifically, CES

¹¹ For example, it may be difficult to precisely define the arrangement that is prohibited.

proposes that no customer be disconnected for non-payment of energy charges.¹²

Constellation concurs with the Commission's recognition that standard offer should not be a safe haven from credit requirements and recommends that the issue be addressed through utilities applying the same deposit, credit and collections requirements to standard offer that they apply to utility service. Select comments that the credit and security approach in Maine works effectively and therefore proposes no change. WPS believes the approach to standard offer uncollectibles is efficient and fair, but does propose a change to the partial payment rules that would require payments to be applied first to the energy portion of the bill (rather than the utility portion as under the current rules).

2. Discussion

We conclude that there is no need to change our general approach to customer credit at this point. Although credit is treated differently between standard offer and competitive service¹³, the standard offer is not a safe-haven from credit and security requirements. Under the current system, utilities manage the credit risk associated with the standard offer portion of the bill in the same manner as they do for

¹² CES makes this proposal as an alternative to an earlier proposal to treat credit risk of competitive providers the same as standard offer providers. The Commission declined to pursue the approach as contrary to the prohibition on disconnection of customers for non-payment of competitive supplier charges, 35-A M.R.S.A. § 3202(14). See, *Order*, Docket No. 2002-541 (Jan. 24, 2003).

¹³ As discussed in the Standard Offer Report (pages 17-18), there are a variety of reasons why the treatment of credit cannot reasonably be the same for standard offer and competitive service.

the utility portion of the bill. Thus, utilities have adequate incentive to minimize credit risk related to standard offer.¹⁴

We decline to pursue CES's suggestion that disconnection of customers for the non-payment of standard offer service bills be prohibited. As discussed in the Standard Offer Report (pages 17-18), there are inherent differences between competitive service and standard offer service that make equalization of credit treatment impractical. The most important difference in this regard is that competitive suppliers can refuse to serve customers that they perceive to be poor credit risks and can quickly terminate service if a customer does not pay. In contrast, standard offer providers must serve all customers and service can only be terminated through the process of disconnection of electricity service. If disconnection for non-payment were prohibited as suggested by CES, standard offer customers could continue to obtain service indefinitely without paying for the service. Thus, CES's proposal would not equalize the credit circumstances between competitive suppliers and the standard offer, but would greatly increase the amounts of non-payment for standard offer service. Such an increase in uncollectible amounts would translate into increased standard offer prices of an unknown magnitude. Additionally, the CES proposal would tend to make standard offer more of a safe-haven for credit-risk customers in contrast to our goal to

¹⁴ Utilities must act pursuant to Commission rules in managing credit risk for both utility and standard offer service. We invite utilities to propose changes to those rules if necessary to provide the appropriate means for utilities to manage credit risk.

treat such customers as close as possible as to what would occur in a competitive market.¹⁵

We also decline to pursue WPS's recommendation that we revise the partial payment rules. We have recently addressed this issue and found that such a change would not be appropriate. *See, Request for Commission Investigation Regarding Waterfall of Customer Payments Under Chapter 322, Order, Docket No. 2002-541 (Jan. 24, 2003).*

IV. RESIDENTIAL AND SMALL COMMERCIAL MARKET

The Standard Offer Study recognized that in contrast to the medium and large C&I market, there has been virtually no retail competition for the small customer market. The Study did identify several measures that might serve to increase supplier access to mass market customers and reduce customer acquisition costs. The NOI sought comment on these measures.

A. Provision of Customer Lists and Data to Customers

The NOI sought comment on whether suppliers should be able to obtain customer lists and mailing addresses that utilities use for billing, as well as other information such as account numbers, usage and credit history.

1. Comments

CMP opposes a requirement that the utilities provide customer lists or other information to suppliers. CMP's view is that marketing electricity to residential and small commercial customers should be no different than marketing any other

¹⁵ In the event that the Commission is presented with evidence of significant market failure with respect to credit in Maine's competitive electricity market, we would consider various approaches to address that failure such as working with other state agencies to explore the feasibility of establishing a "credit risk pool."

product or service, and therefore the provision of information is not necessary. If the Commission does require the provision of such lists, CMP states that there should be a provision for customers to opt off of the list, utilities should be compensated by suppliers for compiling the lists and reviewing them for accuracy, and there should be explicit restrictions on the uses of the lists. CMP also opposes the provision of customer usage and history along with the lists in that there are already procedures in place for suppliers to acquire such information. BHE does not oppose the provision of mailing lists, but is concerned that an opt-off mechanism will require changes to its systems. BHE considers credit and usage history to be customer-specific information requiring customer permission to release. MPS expresses concern about administering the provision of the customer lists and maintaining an opt-off list. HWC indicated no objection to providing customer information if the customer authorizes its release.

CES comments that it is not customers lists and mailing addresses that are important; rather, it is the lack of utility account numbers that make marketing to small customers difficult. CES proposes an approach whereby suppliers provide the utility the names and addresses of customers with whom they have executed contracts and utilities then provide the associated account numbers. WPS supports the provision of customer information, with appropriate opt-off provisions, as a means to greatly enhance the opportunities for suppliers to serve the small customer market.

2. Discussion

As discussed in the Standard Offer Study (pages 20-21), our view continues to be that the provision of customer lists and account numbers is likely to help

stimulate retail activity in the small customer market.¹⁶ We will therefore initiate a rulemaking in the future to consider procedures for the provision of such information to competitive suppliers; however, such a rulemaking process may not begin for several months. In the meantime, we expect utilities to work with suppliers who desire to obtain customer lists and/or account numbers.¹⁷ To the extent that customer lists will be used by suppliers for marketing purposes, any agreed-upon procedure should include a mechanism for customers to opt off of the list. Additionally, use of the lists should be restricted to the marketing and sale of electricity only. Finally, any agreed-upon arrangement should include reasonable compensation for utility costs in providing customer information. If utilities and suppliers are unable to agree on an arrangement for the provision of information, the matter may be brought to the Commission for resolution. We also direct that any agreed-upon arrangement be presented to the Commission for approval.

B. Supplier Use of Utility Bills

The Standard Offer Study identified supplier access to utility bills as a potential means to access the mass market. The NOI sought comment on the usefulness of this as a marketing device.

¹⁶ We disagree with CMP's view that marketing electricity to small customers should be no different than selling them other products. Vendors in other markets do not compete with a default service that is arranged by the government and that requires no action by the customer to obtain.

¹⁷ During the conference held in this proceeding, two alternatives were discussed. The first would be for utilities to provide competitive suppliers with a list of customers and addresses with corresponding account numbers. The second would be for competitive suppliers to provide utilities with names and addresses of the customers they wish to enroll and the utilities would provide the customer account numbers. CMP comments that either alternative is workable and we find both to be acceptable in the interim prior to concluding a rulemaking on the matter.

1. Comments

CMP comments that to protect its name and goodwill, it has consistently opposed any requirements that would allow third parties to access its bills. CMP argues that imposing such a requirement would be beyond the Commission's authority. BHE comments that the use of customer bills could be workable if available to all suppliers and suppliers pay the total cost of the service. However, BHE is unconvinced that this would be the best approach to a direct mailing campaign. MPS states that it could enter contracts with suppliers to provide the service and this would be preferable to requiring such action through rule. HWC states it would cooperate if suppliers pay fair value for the service.

CES does not believe that access to utility bills is a more effective way of reaching customers than direct mailing, but could have an advantage in the ability to pre-print account numbers on enclosed forms. WPS states that suppliers should have the option to use utility bills to promote its product.

2. Discussion

We will not act at this time to compel utilities to allow supplier access to their bills.¹⁸ Suppliers can access customers through their own direct mailings, and action to require access to utility bills for purposes of access to account numbers is not necessary in light of our decision (discussed above) to provide suppliers with customer lists and account numbers.

However, utilities may be agreeable to making this service available to suppliers who desire it. If so, utilities may enter individual contracts with competitive suppliers. Utilities who make this service available are expected to do so on a

¹⁸ Because we have decided not to compel access to customer bills, we need not decide whether we would have the authority to do so.

non-discriminatory basis. To allow for Commission oversight, we direct utilities to file contracts regarding access to customer bills with the Commission for information purposes.

C. Disclosure Labels

In the Standard Offer Study, we noted that there may be some advantages to requiring T&D utilities to produce and distribute disclosure labels for any supplier, rather than just for standard offer suppliers. In the NOI, we asked for comment on the whether this would be a useful service for suppliers and how a fee for the service would be set.

1. Comments

CMP states that there would be no advantage to a requirement that utilities produce and distribute disclosure labels for competitive providers. CMP explains that it hires a third-party vendor for the printing and mailing of standard offer labels, and any cost advantage results from bulk discounts rather from the utility providing the service. BHE and HWC generally concur with CMP on this matter, while MPS comments that the matter can be addressed through individual contracts with competitive suppliers.

CES takes no position on whether utilities should be required to produce and distribute disclosure labels for competitive providers, but suggests that the entire issue of disclosure labels should be re-examined. CES's primary concern is that the label information may appear to represent a commitment regarding electricity sources. WPS states that the option of utilities preparing and distributing labels should be available to all providers.

2. Discussion

At this point, we are not convinced that there would be any advantage to requiring utilities to prepare and distribute disclosure labels on behalf of competitive providers. Utilities do not have any particular expertise in this task and any cost advantage regarding standard offer service results primarily from bulk discounts. Thus, we will not act to require this service at this time.

We note that we have recently amended the disclosure label rule (Chapter 306 § 2(E)(5)) to specify that the Commission may by order require utilities to provide disclosure label services to competitive providers.¹⁹ Thus, we will act in the future if a review indicates that the provision of disclosure label services by utilities might significantly promote competition in the small customer market.

In response to CES's comments, this is not an appropriate proceeding to re-examine broad issues regarding disclosure labels. However, we understand the CES concern that customers may view the label as a "commitment" regarding the resources to be used in the future. The resource mix information on the label was never meant to represent a future "commitment" or indicate the resource mix that will serve a particular customer's load; rather, the label information is only intended to contain the resource mix used by suppliers to serve its customers over a past period. For this reason, our rules require the label to specify the past period associated with the stated resource mix. To some degree, it is the responsibility of suppliers to explain to

¹⁹ We also amended the rule in ways that should reduce the cost of compliance for competitive suppliers. These include removing the requirement that labels contain price information and clarifying that quarterly labels can be mailed to all customers at the same time. See, *Order Provisionally Adopting Rule*, Docket No. 2002-5802 (Feb. 13, 2003).

customers that the resource mix on the label represents the past and not a commitment regarding the future.

D. Customer Service Costs

The Standard Offer Study indicated that we would further consider a proposal made by CES whereby “customer service costs” that may be reflected in competitive supply prices, but not in standard offer prices (e.g., marketing and customer acquisition costs), would be offset by reductions in the T&D bills of customers that switch to competitive supply. This would enable competitive suppliers to more easily attract customers away from standard offer service. In the NOI, we sought comment on the CES proposal generally, how it would be implemented, and how revenue loss from the “customer service cost” offset would be recovered.

1. Comments

CES states that, although it has consistently argued against artificially increasing standard offer prices to enhance competition, the Commission should consider creative means to stimulate competition for the small class. CES points out that the standard offer provider avoids a number of costs that are incurred by a competitive provider (e.g., costs of acquisition, credit review and enrollment).

CMP comments that the Commission should not manipulate utility prices artificially to make competitive service more attractive and there is no available source to fund the CES proposed bill reduction. BHE, MPS and HWC also oppose the CES proposal in that it would require rates to increase to fund the customer service cost offset and would be confusing to customers. WPS comments that some incentive would be necessary to move small customers from standard offer to the competitive market, and the decision to move in such a direction depends on whether the ultimate

goal is to keep prices to the small customers as low as possible or to encourage migration to the competitive market.

2. Discussion

We will not pursue the CES customer service cost offset proposal, as it is essentially a standard offer adder approach. Under the CES proposal, customers who leave the standard offer would receive a discount off of utility rates. The only logical place for the lost revenue to be made up is through the rates of standard offer customers. Thus, the approach would result in an artificial increase in the rates of standard offer customers for the purpose of stimulating a competitive market for the small customer class. As discussed in the Standard Offer Report (pages 22-23), we do not favor the use of adders in this way.

Dated at Augusta, Maine, this 27th day of May, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond